

RULE 17.1, PLEAS OF GUILTY AND NO CONTEST — Defendant may consent to amendment to indictment as part of guilty plea

Revised 10/2009

A defendant may be convicted of an offense different from the offense charged only if (a) the conviction is for a lesser-included offense of the charged offense or (b) the defendant consents to amendment of the charge. *State v. Foster*, 191 Ariz. 355, 357, 955 P.2d 993, 995 (App. 1998). Although a person cannot be convicted of an offense (other than a lesser-included offense) with which he has not been charged, the trial court can amend an indictment upon an oral motion by the State if the defendant does not object. *State v. Schwartz*, 188 Ariz. 313, 319-20, 935 P.2d 891, 897-98 (App. 1996); *State v. Sanders*, 115 Ariz. 289, 564 P.2d 1256 (App.1977). Plea agreement forms include language stating that the charging document is deemed amended to conform with the plea agreement and that the defendant consents to the amendment.